

REMARKS

Status Summary

Claims 1-14 are pending in the present application. Claims 1-14 presently stand rejected. Claims 1, 7, and 14 have been amended, claims 5, 6, and 12 have been canceled, and new claims 16-18 are added by the present amendment. No new matter has been introduced by the present amendment. Reconsideration of the application as amended and based on the remarks set forth hereinbelow is respectfully requested.

Claim Rejection - 35 U.S.C. § 102

Claims 1-7 and 11-14 stand rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by British Patent No. 908,805 to Champion, hereinafter referred to as "Champion". In particular, the Examiner contends that Champion discloses a device for modifying the layout of a road, such as a racetrack, comprising a plurality of individual curb elements (11, 12) disposed along the road, the curb elements being movable in a variety of configurations, for traffic control and direction, wherein the curb elements are tiltable being flush with the road surface to an inclined orientation, facilitating the formation of curves in the roadway and divided lanes. The Examiner further contends that Champion discloses a method for modifying the layout of a roadway, such as a race track comprising providing a plurality of curb elements (11, 12) in or adjacent a roadway traffic lane, displacing from an initial "flush" configuration to a deployed configuration at least one curb element (11, 12),

Serial No.: 10/537,041

wherein the curb elements (11, 12) can be tilted from the flush to an inclined, deployed position. The positions of the Examiner as summarized above with respect to claims 1-7 and 11-14 are respectfully traversed as described below.

Claim 1 has been amended as indicated above to more particularly recite the ability of the claimed device to reshape the racing course. In this regard, claim 1 has been amended to recite that the curb elements are mounted to be displaceable within a track plane. In addition, claim 14 has been amended in a similar manner. Support for these amendments can be found in the specification as originally filed, for example, on page 4, lines 28-33. As a result, amended claims 1 and 14 thus provides a device and method for modifying the layout of a vehicle racing course, with which a new configuration of the vehicle racing course can be achieved in a flexible manner.

It is respectfully submitted that Champion does not disclose curb elements being mounted to be displaceable within the track plane, and therefore Champion does not disclose a device for modifying the layout of a vehicle racing course in the same manner as is recited in claims 1 and 14. Rather, Champion only discloses curb elements that can be raised relative to the track plane. According to Champion, the curb elements are anchored to the track at fixed positions. As a result, each of these elements can influence the racing track only at those fixed positions. This fixation means that the number of possible new configurations is very limited. In other words, a very large number of curb elements would be necessary in order to realize different configurations, such as varying track widths.

In contrast, a flexible reconfiguration of the track can be achieved with the device and method according to claims 1 and 14. This flexibility is realized by the inventive feature that the curb elements are displaceable within the track plane. Accordingly, the curb elements can be positioned not only in their two end positions, but also in any position in between (i.e., continuously within the track plane).

This feature of displaceability within the track plane cannot be realized with the devices disclosed by Champion. Even if the devices of Champion could be modified to exhibit the features recited in claims 1 and 14, such modifications would require considerable reconfiguration that would not have been contemplated by the person skilled in the art. It is further noted that the curb elements taught by Champion are intended for use with in ordinary traffic conditions, whereas the subject matter of claims 1 and 14 involves a device and method for modifying the layout of a vehicle racing course. This distinction is relevant because curb elements for a vehicle racing course are different in that they can be raced over by a racing car at high speed. Consequently, for each of the above reasons, it is respectfully submitted that the subject matter of claims 1 and 14 is neither taught nor suggested by Champion.

In addition, claim 7 has been amended to clarify that the curb elements are individually liftable and to include the feature that curb elements are provided that are tiltable in order to form a transition between lifted and non-lifted curb elements. Support for these amendments can be found in the specification as originally filed, for example, on page 10, line 25, through page 11, line 5.

It is respectfully submitted that Champion does not disclose these features of amended claim 7. In particular, Champion does not disclose individually liftable curb elements that are provided in the region of the track section which are aligned flush with the upper side of the track section in their initial configuration, and further curb elements are provided that are tiltable in order to form a transition between lifted and non-lifted curb elements.

Similarly to claim 1, claim 7 provides a device for modifying the layout of a vehicle racing course with which a new configuration of the racing course can be achieved in a flexible manner. Examples of such modification are shown in Figures 4 and 5 of the present patent application. The curb elements of Champion cannot achieve such a flexible reconfiguration of the racing course and a person skilled in the art would not have contemplated modifying the curb elements of Champion to arrive at the subject matter of claim 7 as amended.

Accordingly, in view of the amendments and remarks presented above, it is respectfully submitted that the features of independent claims 1, 7, and 14 are neither taught nor suggested by Champion, and thus the rejection of these claims under 35 U.S.C. § 102(b) should be withdrawn and the claims allowed at this time. In addition, claims 2-4 depend upon claim 1 and claims 11 and 13 depend upon claim 7. As a result, the above remarks apply equally to these claims, and it is therefore further submitted that the rejection of these claims should likewise be withdrawn and the claims allowed at this time.

Claim Rejection - 35 U.S.C. § 103

Claims 8-10 stand rejected by the Examiner under 35 U.S.C. § 103(a) as being unpatentable over Champion in view of U.S. Patent Application Pub. No. 2001/0048845 to Jack, hereinafter referred to as "Jack". As noted above, Champion fails to teach or suggest each and every element of amended claim 7. Claims 8-10 depend upon claim 7, and thus it is respectfully submitted that the above remarks presented with respect to claim 7 apply equally to these claims.

It is further respectfully submitted that the addition of Jack can not remedy the deficiencies of Champion. As noted by the Examiner, Jack teaches a remote control system to control movement of a plurality of movable roadway barriers. Jack does not teach individually liftable curb elements that are provided in the region of the track section which are aligned flush with the upper side of the track section in their initial configuration, and further curb elements are provided that are tiltable in order to form a transition between lifted and non-lifted curb elements.

As a result, it is respectfully submitted that Champion, taken either alone or in combination with Jack, fails to teach or suggest each and every element of the device of claims 8-10. Accordingly, it is respectfully requested that the rejection of claims 8-10 under 35 U.S.C. § 103(a) be withdrawn and the claims allowed at this time.

New Claims

New claims 16-18 have been added by this amendment as indicated above.

Claims 16 and 17 are dependent claims from claim 7 further reciting that an adjusting device is provided for displacing the curb elements, the adjusting device comprising a mechanical, an electrical or a pressure means actuated drive, and the adjusting device can secure the new configuration. Similar features are recited in previously presented claim 2 and 3.

Claim 18 is a new independent claim that provides a method for modifying the layout of a vehicle racing course in a wide track section of a track. The features of claim 18 are similar to those recited in independent claim 7.

It is respectfully submitted that new claims 16-18 are allowable over the prior art. No new matter is considered to have been added.

CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

Serial No.: 10/537,041

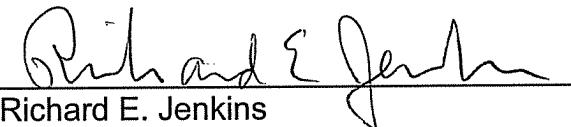
DEPOSIT ACCOUNT

The Commissioner is hereby authorized to charge any fees associated with the filing of this correspondence to Deposit Account No. 50-0426.

Respectfully submitted,

JENKINS, WILSON, TAYLOR & HUNT, P.A.

Date: August 8, 2008

By:   
Richard E. Jenkins  
Registration No. 28,428

1406/275

REJ/BJA/gwc

Customer No: 25297